

CASES - Misc.

DRAWER 4 IMPORTANT LAW CASES

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# Abraham Lincoln's Important Cases

Cases

Miscellaneous

Excerpts from newspapers and other  
sources

From the files of the  
Lincoln Financial Foundation Collection

677 May Jan 1883

David Seeth

to

No 4159

Anderson's Fragment

Recipe &

Declaration

~~Willis, 18~~ <sup>12</sup> October

1882

Mr. Doctor, etc

Willis April 18 1883

Dr. Doctor



May  
Of the ~~same~~ <sup>same</sup> Term  
Of the Macou County  
State of Illinois } Circuit Court. A.D. 1883  
Macou County } ss

Daniel Decker plaintiff  
Complains of Anderson Froman Defendant  
being in custody &c. of a plea of trespass  
in the case For that whereas before and  
at the time of committing of the grievance  
by the said defendant. as hereinafter  
mentioned a certain tract of land with  
the appertances situate at the county aforesaid  
was in possession and occupation of said  
defendant, as tenant thereof to the said  
plaintiff. The reversion thereof then and  
still belonging to the said plaintiff.  
to wit at the county aforesaid yet the  
said defendant, continuing and wrongfully  
and unjustly intending to injure  
prejudice and aggrive the said plaintiff  
in his reversionary estate and interest  
of and in the said land and appertances  
whilst the same was so in the possession  
and occupation of the said defendant  
as tenant thereof to the said plaintiff and  
whilst he the said plaintiff was Counters-  
= teed therein as aforesaid to wit on the  
day of ~~1883~~ and on divers  
other days and times between that day  
and the day of bringing this suit. at  
the county aforesaid wrongfully and  
unjustly and without the leave or  
license of and against the will of the said  
plaintiff of the trees then and there standing



and growing upon said land cut down  
and dug down carried away from said  
land and converted to his own use a great  
number to wit Two hundred of said  
trees By means of which premises he the  
said plaintiff has been and is greatly  
injured prejudiced and aggrieved  
in his reversionary estate and interest of  
and in said tract of land and appurtenances  
then so in the possession and occupation  
of the said defendant as tenant thereof to  
the said plaintiff as aforesaid to wit at  
the county aforesaid and to the damage  
of the said plaintiff of Seven hundred  
dollars and also the thousand of the  
Rails laid up and standing in fence  
on the aforesaid land carried away from  
said land and converted to his own  
use By means of which premises he  
the said plaintiff has been and is  
greatly injured prejudiced and aggrieved  
in his reversionary estate and interest  
of and in said tract of land and  
appurtenances then so in the possession  
and occupation of the said defendant  
as tenant thereof to the said plaintiff  
as aforesaid to wit at the county  
aforesaid and to the damage of the said  
plaintiff of Three hundred dollars and  
therefore he ~~brings suit~~

Lincoln & Thorpe attys  
For plff

Daniel Peck } Trespas on the case  
vs. } Damages \$1000.  
Anderson Thorman }

The clerk of the Marion county  
circuit court will issue process in the above  
entitled cause

Lincoln & Thorne  
Atty, for Peck



State of Illinois } In the Circuit Court of said county  
Macou county & Circuit } October Term. A.D. 1838

William Fellows, and Cornelius Fellows, trading and doing business under the name style and firm of "W. & C. Fellows," plaintiffs, complain of Albert Snyder, Miller, Oglesby, and Abraham <sup>Fellows</sup>, defendants, being in custody &c. of a plea of Treppes on the case upon promises: For that whereas, the said defendants, heretofore, to-wit, on the first day of March in the year of our Lord one thousand eight hundred and thirtyfive, at Louisville, to-wit, at the county and Circuit aforesaid, by and under the name, style, and firm of "A. G. Snyder & Co." made their certain promisory note in writing, the date whereof is the day and year aforesaid, and thereby then and there promised to pay, in six months from the date thereof, to the said plaintiffs by the aforesaid style and description of "W. & C. Fellows" or order, the sum of Eleven hundred and twentytwo dollars and seventytwo cents, <sup>with interest after</sup> for value received; and then and there delivered the said promisory note to the said plaintiffs; by means whereof, and by force of the statute in such case made and provided, the said defendants then and there became liable to pay to the said plaintiffs, the said sum of money in the said promisory note specified, according to the tenor and effect of the said promisory note; and being so liable, they, the said defendants, in consideration thereof, afterwards, to-wit, on the day and year & at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, to pay them the said sum of money in the said promisory note specified, according to the tenor and effect thereof—

And whereas also afterwards, to-wit, on the seventeenth day of June in the <sup>second</sup> year, and at the place aforesaid, the said defendants, by and under the same name style and firm of "A. G. Snyder & Co." made their certain other promisory note in writing, bearing date the day and year last aforesaid, and thereby then and there promised to pay, six months after the date thereof, to the said plaintiffs, by their aforesaid style and description of "W. & C. Fellows, or order, the sum of four hundred and one dollar and one cent, for value received, and then and there delivered the said promisory note to the said plaintiffs; by means whereof, and by force of the statute in such case made



and provided, the said defendants then and there became liable to pay to the said plaintiffs the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect of the said last mentioned promissory note; and being so liable, they, the said defendants, in consideration thereof, afterwards, to-wit, on the same day and year, and at the place last aforesaid, undertook, and then and there faithfully promised, the said plaintiffs to pay them the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect thereof—

And whereas also afterwards, to-wit, on the ninth day of September in the same year, and at the same place aforesaid, the said defendants, by the aforesaid name, style and firm, of "H. J. Snyder & Co" made their certain other promissory note in writing, bearing date the day and year last aforesaid, and thereby then and there promised to pay, six months after the date thereof, to the said plaintiffs, by the aforesaid style and description of "W. C. Fellows" or order, the sum of Twentyseven hundred and eightythree dollars and seventyfive cents, for value received, and then and there delivered the said last mentioned promissory note to the said plaintiffs; by means whereof, and by force of the statute in such case made and provided, the said defendants, then and there became liable to pay to the said plaintiffs, the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect of the said last mentioned promissory note; and being so liable, they, the said defendants, in consideration thereof, afterwards, to-wit, on the same day and year, and at the same place aforesaid, undertook, and then and there faithfully promised, the said plaintiffs to pay them the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect thereof—

And whereas also afterwards, to-wit, on the seventh day of November in the same year, and at the same place aforesaid, the said defendants, by and under, the aforesaid name, style and firm, of "H. J. Snyder & Co" made their certain other promissory note in writing, bearing date the day and year last aforesaid, and thereby then and there promised to pay, six months after the date thereof, to the said plaintiffs, by the aforesaid style and description of "W. C. Fellows" or order, for the sum of four hundred and fiftyseven dollars and twentytwo cents, for value received, and then and there delivered the said last mentioned promissory note, to the said plaintiffs; by means whereof, and by force of the statute in such case made and provided, the said defendants then and there became liable to pay to the said plaintiffs, the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect of the said



last mentioned promissory note, and being so liable, they, the said defendants, in consideration thereof, afterwards, to-wit, on the same day and year, and at the same place last aforesaid, undertook, and then and there faithfully promised the said plaintiffs to pay them, the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect thereof.

And whereas also afterwards, to-wit, on the sixteenth day of December in the year of our Lord one thousand eight hundred and thirty-seven, at Decatur, to-wit, at the county and circuit aforesaid, the said defendants, by and under the aforesaid, name, style and firm of "A. J. Snyder & Co." made then certain other promissory note in writing, bearing date the day and year last aforesaid, and thereby then and there, promised to pay, one day after the date thereof, to the said plaintiffs, by then aforesaid, style and description of "M. C. Fellows" or order, the sum of eight hundred and eighty-two dollars and one cent, for value received, and then and there delivered the said last mentioned promissory note to the said plaintiffs; by means whereof and by force of the statute in such case made and provided the said defendants then and there became liable to pay to the said plaintiffs the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect of the said last mentioned promissory note, and being so liable, they, the said defendants, in consideration thereof, afterwards, to-wit, on the same day and year, and at the same place last aforesaid, undertook, and then and there faithfully promised the said plaintiffs to pay them the said sum of money in the said last mentioned promissory note specified, according to the tenor and effect thereof.

Yet the said defendants (although often requested so to do; and although the said several times for the payment of the said several sums of money in the said several promissory notes specified, have all long since elapsed) have not as yet paid the said several sums of money in the said several promissory notes specified, or either of them, to the said plaintiffs; but so to do have hitherto wholly neglected and refused, and still do neglect and refuse.

To the damage of the said plaintiffs of the sum of Six thousand dollars, and therefore they bring their suit &c.

Sharon & Lincoln for Plffs

On the reverse side of this sheet are copies of the notes declared on —



## A NEW STORY OF LINCOLN.

### How He Kept Joe Jefferson's Father from Going into Bankruptcy.

[Joseph Jefferson in the Century.]

Springfield being the capital of Illinois, it was determined to devote the entire season to the entertainment of the members of the Legislature. Having made money for several weeks previous to our arrival here, the management resolved to buy a lot and build a theater. This sounds like a large undertaking, and perhaps with their limited means it was a rash step. I fancy that my father rather shrunk from this bold enterprise, but the senior partner (McKenzie) was made of sterner stuff, and his energy being quite equal to his ambition, the ground was broken and the temple erected.

The building of a theater in those days did not require the amount of capital that it does now. Folding opera chairs were unknown. Gas was an occult mystery, not yet acknowledged as a fact by the unscientific world in the West; a second-class quality of sperm oil was the height of any manager's ambition. The footlights of the best theaters in the Western country were composed of lamps set in a "float" with the counterweights. When a dark stage was required, or the lamps needed trimming or refilling, this mechanical contrivance was made to sink under the stage. I believe if the theater or "devil's workshop," as it was sometimes called, had suddenly been illuminated with the same material now in use, its enemies would have declared that the light was furnished from the "Old Boy's" private gasometer.

The new theater, when completed, was about 90 feet deep and 40 feet wide. No attempt was made at ornamentation; and as it was unpainted, the simple line of architecture upon which it was constructed gave it the appearance of a large dry-goods box with a roof. I do not think my father or McKenzie ever owned anything with a roof until now, so they were naturally proud of their possession.

In the midst of their rising fortunes a heavy blow fell upon them. A religious revival was in progress at the time, and the fathers of the Church not only launched forth against us in their sermons, but by some political maneuver got the city to pass a new law enjoining a heavy license against our "unholy" calling; I forget the amount, but it was large enough to be prohibitory. Here was a terrible condition of affairs—all our available funds invested, the Legislature in session, the town full of people, and by a heavy license denied the privilege of opening the new theater.

In the midst of their trouble a young lawyer called on the managers. He had heard of the injustice and offered, if they would place the matter in his hands, to have the license taken off, declaring that he only desired to see fair play, and he would accept no fee whether he failed or succeeded. The case was brought up before the Council. The young lawyer began his harangue. He handled the subject with tact, skill and humor, tracing the history of the drama from the time when Thespis acted in a cart to the stage of to-day. He illustrated his speech with a number of anecdotes and kept the Council in a roar of laughter; his good humor prevailed and the exorbitant tax was taken off.

This young lawyer was very popular in Springfield and was honored and beloved by all who knew him, and, after the time of which I write, he held rather an important position in the Government of the United States. He now lies buried near Springfield, under a monument commemorating his greatness and his virtues—and his name was Abraham Lincoln!

### Old Abe's Readiness.

[From Texas Sitings.]

We once heard the following story of "Old Abe," told by a neighbor of his in Springfield, Ill., where the martyr President used to practice law.

It was in the early days of Lincoln's law practice, before he was known outside of a small circle at his home. He was engaged to defend a man in a charge of assault and battery. The case was an aggravated one, one farmer having pitched into another without much provocation and given him a severe beating. The case was clearly proven by the testimony of neighbors who witnessed the assault, and there seemed to be little chance for the defendant to escape.

"Where did you say this fight occurred?" asked Lincoln of the last witness.

"In Bascom's meadow."

"What was the size of the lot?"

"'Bout forty acres, I should say."

"Well," said Old Abe, with a droll twinkle in his eye, "do you think it was much of a fight for a forty-acre lot?"

The laugh which this unexpected query brought from the jury made the affair ridiculous, and the jury acquitted the defendant.

#### A SUIT LINCOLN WAS IN.

It Has Come Up Again In Illinois After  
a Lapse of Forty Years.

[From the Rochester (Ill.) Item.] 1892

At the adjourned road meeting on Saturday last the Commissioners of Highways refused to grant either of the petitions asking for a change of the road extending beyond the north end of the McCoy lane. The petitioners asking for the change, which embraced the opening of a new road to the north line of the township, seemed to be most disappointed, and gave notice that they would take an appeal.

When the fight will end or how it will finally result the *Item* does not pretend to say, but at this same contest is but the renewal of one that was made forty years ago to secure a road over the same route now contended for, some scraps of history relating thereto will not lack in interest. Along in the 50s Isaac Flagg had a saw-mill north of Rochester, near the North Fork, in what is now Clear Lake Township. Rochester was at that time the metropolis of this part of the world, and Mr. Flagg usually wanted a direct road from his saw-mill to the metropolis. He petitioned to that effect, and, after a long and hard struggle, got the road granted, but the damages awarded to the land-owners were so large that in those pioneer days there was not money enough in the whole region to pay them, and they were never paid. Consequently, the road was not opened. Had it been there would now be a road running due north from the north end of what is now known as the McCoy lane.

John Cassity then owned the lands now owned by Mrs. E. Grubb, and they were unfenced at that time. North of the Cassity (now Grubb) lands were the lands of Mrs. Rebecca Branch, widow of Edward Branch, who had a life interest in them only. They are the same lands now owned by Edwin Poffenberger. The case was carried into court, and Flagg was represented by Stephen T. Logan, while Abraham Lincoln and Benjamin S. Edwards were attorneys for Mrs. Branch and the heirs of her husband. W. A. Whitesides figured as one of the opponents of the road, having married one of Mrs. Branch's daughters.

In defining where the road should run, the final phrase was, "and thence to Flagg's mill." There was a good deal of merriment made over this by Mr. Lincoln, who likened "Flagg's mill" to ancient Rome and drew the inference that all roads must lead thereto. He and Mr. Edwards made the plea that Mrs. Branch, having only a life interest, could not give a right of way, but the decision was against them and to the effect that the land could be condemned and she could give a right of way, good for her lifetime, and after she died, if it became necessary, the land could be again condemned and the right of way renewed by the heirs.

Andrew H. Kalb, who is yet living in Round Prairie. In his 81st year, was one of the appraisers appointed to assess the damages. The other two were Edward Clark and Cornelius Van Nostrand. They placed the damages at \$250, which at that time was considered a small fortune.



JUDGE BLODGETT tells of an occasion when he was down at Springfield that Abraham Lincoln appeared before the Supreme Court in a case in which the point at issue was a certain lien upon a piece of property, says the *Chicago Times*. Mr. Lincoln's client owned the property. The presiding Judge was noted as being somewhat pedantic. In the course of Mr. Lincoln's remarks he had occasion to speak of the lien referred to and invariably pronounced it "leen," long and flat, as the word is used in common conversation. This visibly affected the Judge.

"Li-en, Mr. Lincoln," he gently remonstrated,

"Very well," said the future President of the United States, hardly heeding the interruption. Pretty soon "Uncle Abe" warmed up to the exigencies of his case, and, forgetting all about the Judge's admonition, came out with another "leen" as close to the vernacular as ever.

"Li-en, Mr. Lincoln," the court again took occasion to observe.

"As you please," was Lincoln's somewhat nettled rejoinder.

"Not as I please," came from the bench. "That is the pronunciation favored by Webster and by Worcester. It so obtains at Westminster Hall and also at our own Supreme Court at Washington."

During this exordium on the amenities of legal pronunciation Lincoln had recovered his proverbial good humor, and as a twinkle appeared in his eye he bowed to the Court and remarked:

"Certainly, your Honor, certainly. I only desire to say that if my client had known there was a 'lien' on his farm for so long a time, I'm sure he would not have stayed there even long enough to bring this suit and I would not have the pleasure of appearing before this honorable Court."

## Abe Lincoln Forced Preacher to Pay for Destroying Whisky

MATTOON, Ill., Feb. 11.—(P)—  
Here's another Lincoln anecdote:

Clarence W. Bell, a descendant of the Emancipator, described Lincoln's first law case at a memorial meeting tonight.

Uncle Joe Hall, Bell related, went to camp meeting hereabouts. He left a pint of whisky outside the church under the seat of his wagon. The preacher found the bottle, brought it inside the meeting house and broke it before the congregation. Uncle Joe sued for damages.

"Abe took the case," Bell said, "and the preacher was forced to pay 14 cents damages for the whisky and two cents for the bottle. This was Lincoln's first law case." 2-12-31 X-S.



# Beloit Had Lincoln as Counsel in Suit

## Emancipator Led Fight to Win Title to River Land- ing,

*Milwaukee Journal 2-7-32*  
BY SPECIAL CORRESPONDENT OF THE JOURNAL

Beloit, Wis.—Abraham Lincoln, the Beloit Historical society has learned, made four visits to Beloit instead of the three credited to him for years.

A collection of early Beloit newspapers given the society by former Mayor C. A. Gault has revealed the hitherto unremembered visit, in many ways the most interesting and important of all, for in it the future emancipator served as counsel for the people of Beloit in a land suit that threatened for a time to place the village's public landing place on the river in private hands.

### Vermonters Sought Landing

The Emigrant Co. settled the then village of Turtle before the land had been thrown open to claims and settlement by the federal government. The members of the company agreed among themselves on what land each was to have and claims were to be filed as soon as the government was ready.

Lucius Fisher filed the claims correctly in Milwaukee, but in transferring the land later he failed to include the public landing area along the river. Paul Dillingham, then governor of Vermont, through his son-in-law, Matt Carpenter, who lived in Beloit, managed to get a quit claim deed to the area. The village had erected buildings on the land but it looked for a time as if they would pass into private hands with the land.

### Pursued Chief Blackhawk

Feeling that they had been cheated, the people began suit in 1854 through Fisher to regain title to the land for the village. The suit is well known to local historians but it is only recently that they learned that Lincoln served as counsel for the people in the famous case. Dillingham retained Judge Edward Ryan, Milwaukee, and the famous Rufus Choate, Boston, as counsel. The people retained Judge Daniel Cady, New York, Senator James Doolittle, Racine, and Abraham Lincoln, Springfield, Ill.

At that time Lincoln was known as one of the leading lawyers of the middle west. He came to Beloit for the trial of the case and took a leading part in getting title of the public landing place for the community.

Lincoln's first visit to Beloit was in June, 1832. Then a young man of 23, he was a member of the outfit of soldiers that was pursuing Chief Blackhawk up the Rock river valley. When Lincoln visited Beloit in 1859 to deliver his now famous slavery address he pointed out the trail the army had followed from Beloit to Janesville, the well at Brook's mill where the soldiers had stopped to refresh themselves and the spot in the northeastern part of the city where they had camped for the night.

### Crowd Demands a Speech

The Fisher case trial in 1854 was Lincoln's second visit to Beloit but all the papers pertaining to the case were not signed at the time and when Lincoln started his famous series of debates with Stephen L. Douglass in 1858 he stopped off here again. The first debate was held in Ottawa, Ill., and Mr. Fisher knew that Lincoln was going to Freeport from there. He met Lincoln's train as it passed through here and persuaded him to stop off to sign the papers.

Lincoln's popularity was then widespread in the middle west and a crowd gathered at the Bushnell house, where he had dinner. He was taken next to Murray's hall and the crowd demanded that he make a speech. In 1859 he came to Beloit for the last time to deliver his famous slavery address.

TUESDAY, FEBRUARY 12, 1935.

Average daily circulation for the year 1934 after deducting all unsold copies was.....101,603

### A. LINCOLN, ATTORNEY-AT-LAW.

In an age when statesmen toss billions about as if money were confetti and the public too often gauges the ability of professional men by the mammonized measure of their earnings, let us spend a few minutes in court with Abraham Lincoln, the circuit-riding lawyer of Sangamon county.

Born to be a great advocate, coming into mastery of language with the ease of genius, Lincoln was self-taught in the highly intricate and abstruse arts of common-law pleading and equity jurisprudence. In time his ability was recognized throughout the west, and he earned what were then great fees in some of the notable cases recorded as precedents in American law.

But the Illinois Supreme court reports, invaluable repository of the social and economic history of the state, reveal that Lincoln fought his cases to a finish with every ounce of his ability, no matter how small the interests involved. Be his client prince or pauper, the claimant of an estrayed pig or the American union itself, Lincoln gave to that client's business the full measure of his ability.

In a recent number of the Chicago Bar Record, Alexander J. Isaacs recalls the strayed-pig case of Patrick O. Byrne vs. Andrew J. Stout, recorded on page 180 of the fifteenth volume of the Illinois reports. Mr. Lincoln's client had a pig afflicted with wanderlust. The defendant found the pig and penned it up. Mr. Lincoln's client laid claim to his porker. There followed the quarrels and threats that usually preceded litigation in our frontier society. During the course of the dispute the pig died. Mr. Lincoln brought an action in Circuit court for the value of the animal—\$3—and obtained judgment.

In due course the case, on appeal, came before the Supreme court of Illinois and Mr. Lincoln lost, the learned court holding that no case of "unlawful conversion" by the defendant had been made out.

Abraham Lincoln had four cases on the Supreme court calendar that term. All of them together involved less than \$500. One was a criminal case in which Lincoln's client had been fined \$10 for selling liquor without first obtaining a grocery license.

Abraham Lincoln lost all of his cases in the Supreme court that term. Eight years later he was president of the United States. Ten years later he emancipated the slaves.



## LINCOLN AND GOPHERS

*Compiled by HERBERT WELLS FAY, Custodian Lincoln's Tomb*

Rev. James Freeman Clarke tells the following gopher story:

I once had a long day's talk about Abraham Lincoln with a friend in Kentucky, Joshua F. Speed, who had lived in intimate relations with Lincoln when he was a young lawyer in Springfield, just beginning business. He said that every case he had took his whole interest and attention. Once he had to argue a case in which all depended on finding the right boundary for a piece of land on the prairie. There are no stones there for boundries, and few trees, so the surveyors were in the habit of fixing the corners of the lots by shoveling up a little heap of earth. But it happened that a prairie squirrel, or gopher, does the same thing. Hence it becomes important to distinguish between the mounds made by the surveyor and those made by the gopher. Lincoln sent to New York to get books to tell him of the habits of the gopher, brought them into court, showed the judge and jury how the gopher built his mound, how it differed from that of the surveyor, and after he had won his case, sat up late in the night still studying about the gopher, so as to be sure he knew all about him.

Boston, 1882

J. F. Clarke.

Rev. James Freeman Clarke, eminent Boston scholar and divine, often mentioned in the group consisting of Emerson, charming Margaret Fuller and the famed new England poets, was pastor of the Unitarian church at Louisville, Ky., from 1833 until 1840. In an early day he became much interested in Lincoln.

# LINCOLN LORE

Bulletin of the Lincoln National Life Foundation - - - - - Dr. Louis A. Warren, Editor.  
Published each week by The Lincoln National Life Insurance Company, of Fort Wayne, Indiana.

No. 390

FORT WAYNE, INDIANA

September 28, 1936

## TEN LINCOLN LAW CASES

One hundred years ago this month, Abraham Lincoln obtained a license to practice law. This anniversary occasion should not pass without some recognition of the initial step which led to a successful career in his chosen profession. It appears that an appropriate memorial of his legal efforts might be the compilation of some of the most important and interesting cases in which he participated.

### HAWTHORN vs. WOOLRIDGE

#### A Compromise Effected

The first case in which Abraham Lincoln is said to have been engaged seems to have received Lincoln's attention while he resided at New Salem, as the "Praeceptum" he wrote was dated October 8, 1836, six months before he moved to Springfield and became associated with Stuart. It appears that this suit, a trespass case, damage \$500, never came to trial but was compromised. Lincoln undoubtedly encouraged this procedure.

### BAILEY vs. CROMWELL

#### The Illinois Slave Girl

A man by the name of Cromwell living in Illinois had in his possession a negro servant girl named Nance. A neighbor named Bailey bought the girl with a promissory note with the agreement that papers guaranteeing his right of possession would be forthcoming. Cromwell died and his heirs sued for collection of note. Bailey retained Lincoln who proved Nance was over twenty-one, had declared herself to be free, and that the sale of a free person was illegal.

### PEOPLE vs. HARRISON

#### The Preacher's Grandson

Two young men belonging to well-known families of Sangamon County engaged in a quarrel over politics, and one of them was stabbed and three days later died from the wounds. Lincoln was called to defend the alleged murderer who was a grandson of his old political opponent, Rev. Peter Cartwright. The old minister had visited the dying boy whom his grandson was said to have attacked. Lincoln used the testimony of the grandfather of the defendant with reference to this visit to free the accused young man.

### ISAAC SMITH vs. JOHN H. SMITH

#### An Election Bet

A bet was made two days after the presidential election in November, 1856—one hundred and ten dollars against a buggy that Filmore's vote in New York State was not less than the other candidates. Suit was brought to recover the buggy and the Circuit Court held the wagering contract void but the Illinois Supreme Court reversed the decision.

### HURD vs. ROCK ISLAND BRIDGE CO.

#### River and Rails in Conflict

A river steamer "The Effie Afton" ran against a pier of the Rock Island Bridge over the Mississippi, and was destroyed. The contest in the courts over the right to obstruct a navigable stream was finally won by the rail-

road interests with Abraham Lincoln as the chief counsel. The decision paved the way for the developing of coast to coast railroads.

### BANET vs. THE ALTON AND SANGAMON R. R. CO.

#### A Changed Route

Banet thought by preliminary announcements that the railroad intended building their road through a small town where he owned some land. The route was changed and missed his property by twelve miles. He attempted to be released from his subscription on the grounds that the change in route relieved him from his liability, but the court found against him.

### MCCORMICK vs. MANNY

#### An Unused Brief

Although Lincoln was retained as one of the counsel in the McCormick Reaper Case, he had no active participation in the pleadings. He prepared a long brief, but after arriving at Cincinnati, where the case was to be tried, it was decided that but two of the three attorneys should speak and Lincoln was left out and his brief unused. The importance of this case in Lincoln's life was his reaction towards the highly trained lawyers which he observed in the trial. He went home to more fully equip himself for future legal battles.

### ILLINOIS CENTRAL R. R. vs. COUNTY OF McLEAN

#### A Railroad's Gross Earnings Tax

Among all the cases tried by Lincoln none has been so often cited by other courts as the agitation over the right of the Illinois Legislature to exempt railroad property from taxation or to commute the rate of taxes for a fixed sum. This case won by Lincoln for the railroad interests brought him his first large fee, although he was obliged to sue the company to collect it.

### PEOPLE vs. ARMSTRONG

#### The Almanac Evidence

The son of Jack and Hannah Armstrong, old friends of Lincoln at New Salem, became involved in the murder of a companion named Metzker. Lincoln wrote to Mrs. Armstrong, then a widow, that he would undertake the defense of her son without charge. In the course of the trial an almanac was introduced as evidence that the testimony of one of the principal witnesses against Armstrong was in error. It helped materially to free Armstrong.

### JOHNSON vs. JONES

#### Lots on a Sandbar

The "Sandbar Case," as it is usually called, involved the question of ownership in newly-made land caused by sand being washed in from Lake Michigan at the mouth of Chicago River. This was a hard-fought case and had already been heard twice, the jury having disagreed on the second trial. Lincoln was called into the case and, largely through his efforts, a decision was reached. It was the last real important trial in which he participated.



# LINCOLN LORE

Bulletin of the Lincoln National Life Foundation - - - - - Dr. Louis A. Warren, Editor  
Published each week by The Lincoln National Life Insurance Company, Fort Wayne, Indiana

Number 466

FORT WAYNE, INDIANA

March 14, 1938

## LINCOLN AND THE LOGGING INDUSTRY

Copy for this issue of Lincoln Lore is being written by the editor after having spent three days in the state of Oregon driving through her magnificent forests and along her beautiful rivers. One is convinced that Lincoln would have been extremely happy out here in this county had he accepted the office as secretary of Oregon which seems to have been offered to him at one time.

One is constantly reminded of Lincoln as the mammoth trees in the virgin forests are observed and the memory of the tall railsplitter in the Indiana wilderness is recalled. In an autobiographical sketch, Lincoln stated that when he was but eight years of age he went to work with an ax helping his father to make a clearing in the wilderness where their home was located. One remembers, also, that the neighbors of the Lincoln's in Indiana never forgot the great strength of this woodsman who could sink an ax deeper into a stump than any other man in the country-side.

It is very doubtful if Lincoln could have been called by any other term that so accurately identified him in his young manhood as the name "Railsplitter." It associated him definitely with the woods in which he grew up and which he loved. The first rostrum from which he spoke as a youth to his audience of pioneer children was a tree stump. He was most certainly a stump speaker, and his voice with its high pitched tone was the piercing voice of a wilderness spokesman.

But the trees had to be gotten out of the forests and rivers were the only primitive vehicles which could carry them to their long distant destination. As the net work of the great log rafts which now line the Oregon rivers are observed, Lincoln's own river experiences are recalled. He would have felt very much at home on one of these temporary flatboats, as he assisted in the construction of many early river

craft which were little more than log rafts with cabins on them.

One remembers the eventful trip which Lincoln made to New Orleans in 1882, when a youth but nineteen years of age, and he would be a fa-

"BENSON VS. DEANE  
Sangamon Circuit Court  
December Term, 1858  
Lincoln and Herndon

Hon. David Davis Presiding

"The the Honorable Judge of the  
Circuit Court of Sangamon County—

"(1) For that whereas in the Declaration the Plaintiff William Benson avers that he was engaged in the business of operating a grist-mill at a point on the Sangamon River set

"(2) forth in the declaration—He further avers that while so engaged the Defendant Silas Deane was at a point farther up stream cutting saw-logs—That he the defendant threw some saw-logs into the stream during

"(3) the Spring freshets—that the same floated down stream and burst his the plaintiffs mill dam causing him great loss and causing damage to his mill—Therefore he seeks replevin in the sum of money of four-hundred dollars \$400.00—

"Appearing for Defendant

"Lincoln and Herndon

"Submitted—

"That the question before the Court is whether the said stream is a navigable stream within the meaning of the term—If the said stream is a navigable stream within the meaning of the term it is therefore a Public highway and as such defendant is within his rights in floating saw-logs—If the stream is not a navigable stream within the meaning of the term it is therefore private property and if such it is the opinion of counsel that Plaintiff may recover his damages by replevin—

"Springfield, Dec. 1st 1858

"A. Lincoln"

miliar figure, indeed, standing on one of these Oregon rafts with his hobnailed boots, primitive dress and loggers pole. Lincoln, in a very peculiar scene, fits into the picture of Oregon.

In the city of Portland, there is a very excellent bronze statue of Abra-

ham Lincoln with head bowed, revealing him in serious meditation. But this is not the Lincoln which one associates with the Oregon Trail. It is a buoyant, cheerful Lincoln with uplifted head and the very spirit of adventure and optimism in every line of his body. In Oregon, Lincoln would have been happy instead of depressed and would have lived over again his youthful years in the Indiana wilderness.

Lincoln's experience as a riverman is well known and his interest in the navigation of the streams was one of the principal planks in his early political platforms. It will be recalled when "The Talisman", the first steamboat to descend the Sangamon River to Springfield, Illinois, reached her destination, Lincoln was the pilot. It was on this river also that he built his first flatboat in Illinois and had his interesting experience on the mill dam at New Salem.

After Lincoln began to practice law, he was often retained by those who had some legal problem to settle with respect to the navigation of the rivers. The Rock Island bridge case in which he defended the rights of the railroad to build a bridge over a navigable stream is a case in point. He was well informed on all phases of river litigation.

One of the finest Lincoln documents bearing on Lincoln's legal practice with respect to river problems recently came to light in New York and was acquired by the Lincoln National Life Foundation. It will be observed from the copy of the manuscript which appears on this page, that in this case the question of whether or not the Sangamon River was navigable as late as December 1858, is the decisive point. This document was called to mind as the editor of Lincoln Lore observed so many thousands of great logs which had been hurled into the Oregon rivers and were being floated to their proper destinations.



Mortimer, Caroline Lindsey

Original letters in  
Meeting Lincoln - M  
file



Its name indicates its character

## The Lincoln National Life Foundation

Fort Wayne, Indiana

R. GERALD MCMURTRY  
DIRECTOR

April 10, 1957

Mrs. Sadie Kay  
1334 Van Ness  
San Francisco, California

Dear Mrs. Kay:

I have your letter of March 31 and I am interested to learn that you have found a story in your mother's papers about how her father secured Mr. Lincoln to defend him in a law suite at Danville, Illinois in 1835.

According to your story Mr. Lincoln came to the Danville Court after riding three days on horseback and after two days in court was able to win the case. I note that you state that Mr. Lincoln gave your grandfather a \$20.00 receipt and saved your grandfather's home.

This paper would certainly be of great interest in ~~your~~ <sup>our</sup> museum. If you should place it here hundreds of people would have an opportunity to see it and scholars and writers would have it available for research. Perhaps someday this story might be incorporated in some new biography that will be published concerning Lincoln.

You asked would this paper be of any value to us. It certainly would, how do we go about acquiring it?

I am quite eager to hear from you again.

Yours sincerely,

R. Gerald McMurtry

Director

dh

July 15 - 1957

Dear Mr. McMurtry.

Here is my Precious paper written many years ago  
by my mother. Caroline Lindsey Mortimer  
Sadie Kay

I am 86 years young.

1 Dees Friends of the Broward Tim Club

I want to tell you how old Lincoln, and my father  
were losing his first farm, it was in 1835 -  
near Danville Ills, father at that time was a school  
teacher in the winter time and working on a farm  
in summer, there was an old acre tract of land near  
the school house that he had the chance to buy and  
took. with the help of kind neighbors he soon had  
a good two roomed log house built and made many  
other improvements, after working on the place for  
three years, one day he received a notice that his land  
to the property was no good, that it belonged to a  
certain land Co. but, as he had improved the place,  
they would give him a good deed to it for the sum  
of 300,00 dollars, father was very much upset by  
such a piece of news, as he often said, all his Scotch  
Irish blood was boiling hot. He went to see the man  
who had sold the land to him, and after talking things  
over, they concluded it was a fraudulent attempt  
to rob them better the other men said, Mr. Linsey,  
you fight them and I will stand back of you, for it  
your deed is not good mine is not either, father  
went to Danville to see a lawyer, he knew, and told  
him the trouble, the lawyer said I don't know  
much about land titles in Illinois, but I can  
tell you how to find a man that does know, go out  
to Springfield and get Ab Lincoln for he knows more  
about such things than any other man in Illinois

(2)  
father started for Springfield as soon as he could.  
and it was a three days journey on bare back, for  
there were no Railroads at that time in Ill. when  
he got to Springfield and found Mr Lincoln's office  
no one was in, but a man standing close by  
asked if he was at home signing his potatoes, father  
thought it was a funny name so that he had to lie  
down, but the man directed him to Lincoln's  
house and when he went to the house -  
the Lincolns were sitting down signing the potatoes,  
so father asked him to go home, as now  
over that same night, "one that the man said let me  
know" and that he would expect to take the case,  
and when they came to the court, they made all arrangements  
for the trial, and the evidence was taken and he was  
found guilty of such robbery of  
honest working men, Mr Lincoln like father  
had to ride horse back three days to reach Danville  
from Springfield, he spent two days there in Court  
looking after the case, and then he had to ride three  
days back home and his bill was \$20.00 and he  
gave a written receipt signing his name of Lincoln.  
years after my father had that receipt framed and hung  
up in his own office,



My father did<sup>not</sup> meet Mr. Lincoln any more  
times in 1860, after he had been nominated, for Breckenridge  
the man was threatening and when, after read of the  
nominations, he was so glad they the right man  
for only, he told Mother when he got the papers telling  
of what the Republicans had done, at that time  
we were living near Paris Ill for father had sold  
his small farm and bought a large one in Edgar  
County. I remember so well when he bought that place  
we had been living in Indiana in a three roomed  
house we had a good time in it, but when father  
bought a home from a trip to Ills he said he had  
what it seemed like a palace to us children.  
I have always loved a white house ever since,  
along with father after Lincoln was nominated, the  
folks in Edgar Co. got up a big Lincoln Parade and  
Mr. Lincoln came and spoke for them, that was  
when we girls made the flag to carry in the Parade.  
for you could not buy a flag at that time, so we  
made one a lot of young ladies rode horseback on  
white horses with red and white streamers around their  
necks, and the rest of us in wagons and  
carriages and they put Mr. Lincoln at the head of the  
procession and oh how proud we all were and how  
excited we all were for Lincoln.



# **Lincoln Brought Judge to Justice**

By JIM BISHOP

**T**HE little courtroom was hot. The ruddy-faced judge leaned across the bench and spoke to a bailiff. The oath was given to the summer grand jury, a collection of whiskered men with faces in varying shades of villainy. The lawyers wore string ties and big collars in spite of the heat. They traded whispers and documents.

The tall skinny lawyer sat alone. His crane legs were crossed, the warty features were sad, the black hair uncombed. He sat in the front row, hands clasped in an attitude of prayer, the left eye half closed in a doze. He was regarding the judge.

The lawyer was Abraham Lincoln. The day was August 10th, 1857—one hundred years ago. The event was the convention of the summer session of the Sangamon County Circuit Court. Mr. Lincoln was 48.

He was a moody man, a man astride a huge emotional pendulum. In an hour, he could swing from deep melancholia to gaiety. He was Methuselah and he was Huckleberry Finn. He was married to an hysteric, a plump little woman whose face purpled with venom and jealousy. By the same token, Mr. Lincoln was difficult to live with. His moods were beyond his control and, at dinner, he often plunged the family into gloom. One day, when a grocer complained about Mrs. Lincoln's bursts of temper, Mr. Lincoln laid a hand on the grocer's shoulder and murmured: "Can you not stand for fifteen minutes what I have stood for fifteen years?"

The judge was shrewd and mean. He used his position to bring the lawyers to heel. He made them compete with each other for his smile. One afternoon, he said to Mr. Lincoln: "I suspect that you do not trust me." The lawyer was compelled to lie. "How can you say that, your honor?" he said. "I would trust you with my life."

His honor smiled benignly from the bench. He had jockeyed this homely middle-aged man into a position from which there could be no retreat. The judge masked his emotions and said: "In that case, Mr. Lincoln, you and I will trade horses sight unseen tomorrow morning before court convenes."

The lawyers standing around the bench burst into undecorous laughter. The downstate lawyer who had beaten them in so many law cases was about to be swindled legally. Mr. Lincoln would bring his good horse up to the courthouse. The judge would lead a \$2 nag, sick and weak, and the two men would swap.

In the morning, the lawyers waited outside the Springfield Courthouse for the transaction. There was laughter and there were jokes. It was good to see Mr. Lincoln beaten.

It had rained in the night. The street was thick with tawny mud. A shout went up. Someone saw the judge coming down the middle of the street. His black stovellid hat was down over his little blue eyes and a cigar jutted upward from his teeth. He was leading a swaybacked nag which was so far gone that some lawyers wanted to bet that it would not be able to get to the courthouse at a walk. It had split hooves and was a wind-sucker.

The horse arrived and almost sank to its knees. The lawyers on the sidewalk were in hysterics. Someone looked up in the other direction and saw Mr. Lincoln coming around the corner of the courthouse. He walked directly to the judge.

"Your honor," he said sadly, "this is the first time I've ever been beaten in a horse trade." He took the wooden carpenter's horse from his shoulders and handed it to the judge.



## Abraham Lincoln As an Attorney

To the N. Y. Herald Tribune:

The sudden death of Rachel Crothers brings to an end her brilliant career as a playwright, which is known to all theater lovers. However, the close association of her family with Abraham Lincoln is not generally known. She was born on land previously owned by Lincoln in Bloomington, Ill., the daughter of two physicians. Her mother took up the study of medicine at the age of forty, and became the first woman physician in central Illinois. Mr. Lincoln was an old friend of the Crothers family, and a nurse who had formerly brought up the Lincoln boys in Springfield reared Rachel Crothers and her sister Lulu.

Dr. E. K. Crothers, Rachel's father, was defended by Lincoln in a law suit in Bloomington in 1857-'58. A workman named Samuel G. Fleming was injured by a falling wall and one of his legs was fractured. He was attended by Dr. Crothers and another doctor, but the leg became shorter than the other one and Fleming sued the two doctors. For the defense of the case, Dr. Crothers coached Lincoln in the physiology of bone repair, in the young when there is a plentiful natural supply of organic material in the bones and in the old when the organic material is absorbed and the bones become brittle. These examples were illustrated in court by the use of chicken bones which had been prepared by Dr. Crothers. But Lincoln could not remember the technical descriptions, and in referring to the bone of a young chicken he said "this bone has the starch all taken out of it—as it is in childhood." Fleming admitted he could walk, but he had to limp. Lincoln countered that most other doctors would have amputated the leg and he should be grateful that he still had his leg. The case was continued into 1858 in Lincoln, Ill., and it was dismissed by agreement.

SHERMAN DAY WAKEFIELD,  
Author of "How Lincoln Became  
President."  
New York.

### ABE'S BIRTHDAY

A dead hog, involved in a \$3 law suit, is not the kind of thing you expect to find lolling around the Illinois Supreme court. And, furthermore, it must be admitted that it was Abe Lincoln who "came dragging the ghostly residue of this departed ungulate by the hoof."

It was Thursday, Feb. 2, 1854, that the Supreme court justices, some bearded, gave an entire day to this swaggering swine. A lower court had ruled the hog owner, Patrick O. Byrne, should receive \$3 damages for indignities heaped upon the hog by a neighbor, Andrew J. Stout.

Mr. Lincoln came prepared to prove that his client, Stout, had by no means set the dogs upon the porker, causing it to sprint until it died of a heart attack. He began to say things to the Supreme court about this hog, which, if the hog's mother could have heard, undoubtedly would have caused her to bite the Civil War President.

Mr. L. pointed out that this depraved dissipated pig came to board with Stout, and stayed two years, eating its head off. Stout tried to drive it away, Mr. Lincoln said, but the pig was obdurate, and, each time it was fenced, tore down the enclosure.

The hog got under a corn crib, Mr. L. continued, and practically tore it down getting out. It spread every species of havoc, Mr. Lincoln asserted, that a contemptible, degenerate and degraded quadruped was capable of scheming and devising. In short, Mr. Lincoln observed, it was the most destructive, the meanest and most unmanageable swine in Southern Illinois.

Well, the Supreme court members, stroked beards, and pondered for three weeks. Then they said, in effect, give Stout back his \$3.

These court documents in Lincoln's handwriting, now of tremendous value, disappeared around 1900, and, it is believed, were stolen by some court employe of the time, which is cheering. A person does not like to think of a Supreme court justice grabbing them and running.

+



#### ADD ABE

Danville got up to its ears in education in 1851. That is why Abraham Lincoln came into court dragging a libel suit.

William Fithian, M. D., owned a school in Danville, and George W. Cassedy, a determined fellow, was proprietor of a rival institution. They were bitter, one with the other, and each asserted firmly that he had the more tidy set of sums, the more burnished brand of adverbs.

Finally, one day, Mr. Cassedy got a bit out of bounds in a public speech. "Now, suppose, Dr. Fithian," he said, "that I was to ask you if you ever abandoned the body of your wife in Paris, Ill., and left her to be buried at the mercy of others?"

Dr. Fithian gave a scream like a bear with a bunion, summoned Barrister Lincoln, and said, "Abe, stroke him with a libel suit." And Mr. Lincoln did, took the thing right before Judge David Davis, who weighed 300 pounds.

Mr. Lincoln must have argued well, altho his utterings have been lost to time. The jurors nodded their heads and decided Fithian, M. D., had been libeled to the extent of \$547.90, altho it has never come clear how they reached that figure.

George Cassedy paid the judgment promptly. For years, an observer could find on the personal property tax schedule of George Cassedy, this item: "\$547.90—the character of Dr. Fithian, M. D., which I bought and paid for."

Each has his favorite Lincoln stories, and Atty. Wayne Townley of Bloomington fancies the tale of Ward H. Lamon, an attorney, wrestling in the Bloomington courtyard; and returning to court, trousers torn, and southern suburban area in view. Lawyers took up a collection for repairs, but Abe would have none of it, and wrote, as follows, "I can contribute nothing to the end in view."

5  
**NICHOLAS G. MORGAN, SR.**

ATTORNEY AT LAW

SUITE 507 WALKER BANK BUILDING

SALT LAKE CITY 11, UTAH

EMPIRE 4-7847

October 5, 1960

Dr. R. Gerald McNurty  
Editor - Lincoln Lore  
Fort Wayne, Indiana

Dear Dr. McNurty:

I do not recall having had the pleasure of meeting you. However, I was well acquainted with and admired greatly your predecessor, Louis A. Warren, then Editor of Lincoln Lore.

You may recall that it was I who presented to the State of Illinois the heroic bronze statue of Abraham Lincoln at New Salem.

One of the main reasons for my making this presentation was the fact that my grandfather, Nicholas Groesbeck, from whom I got my name, was a Springfield neighbor of and client of Lincoln in two different lawsuits, viz. Nicholas Groesbeck vs. Great Western R.R. Company. See Nov. 1855 term of Sangamon Circuit Court, pages 172, 175, 227. Lincoln and Herndon for Groesbeck and Stuart and Edwards for Great Western R.R. Co. On March 18, 1856, Lawyer Lincoln filed motion for dismissal of case, a settlement having been effected.

Another case, McGinnes vs. Nicholas Groesbeck et al. (See November, 1955 term of Sangamon circuit Court, pp. 172, 175, 227 and 318). In this case three minor sons of Nicholas Groesbeck were charged with negligently causing a wheat stubble field to catch fire resulting in the destruction of eleven hundred bushels of grain for which Plaintiff demanded \$1100.00. Judgement was taken against Groesbeck. Lincoln compromised the case and the Groesbeck family left for Utah, having joined the Mormons in their migration West.

In the early 1860s, Nicholas Groesbeck located mining claims in Alta, southeast of Salt Lake City and discovered a very rich gold - silver and copper mine which he sold to an English syndicate from which transaction he netted

Dr. McNurty  
October 5, 1960  
Page 2

over a million dollars. With this money he acquired valuable real estate and built the largest business block at that time in the west. For years all Federal officers were located in this building. He gave it the name of the mountain in which he discovered his rich body of ore, vis. The Wasatch Building. It was torn down a quarter of a century ago and the site where it stood is the busiest corner in Salt Lake City.

It is also family history that Lincoln rendered Groesbeck legal services in securing a bond for Joseph Smith on one of the many arrests made of him in Nauvoo.

Should this historic material be of value to you, you are privileged to use any part of it you desire.

Very sincerely yours,

*N. G. Morgan Sr.*

N. G. Morgan, Sr.

NGMSR:rg



Tuesday March 18<sup>th</sup> A.D. 1856

Barbara Kirsch

Plaintiff

Against

William Kintz

Defendant



Law.

And now at this day came the said parties by their attorney and upon their motion It is ordered by the Court that this cause be dismissed at the costs of the said Defendant.

The People of the State of Illinois

Plaintiff

Against

William Kintz

Defendant



Barclay

Now at this day came the said People by their attorney and upon his motion It is ordered by the Court that this cause be dismissed at the costs of the said Defendant.

Mathew Gaynor

Plaintiff

Against

Algernon Parr

Defendant



Barclay

Now at this day came the said Plaintiff by his attorney and upon his motion the said Defendant is ordered to appear here by tomorrow morning.

✓ Nicholas Grossbeck

Plaintiff

Against

The Great Western New Road Company

Defendant



Barclay

Now came the said Plaintiff by his attorney and upon his motion It is ordered by the Court that this cause be continued.

Hooker Hunt & Co.

Plaintiff

Against

Ch. H. Tunison

Defendant



Barclay

Ordered by the Court that this cause be continued with alias process against said Defendant.

October 11, 1960

Mr. N. G. Morgan, Sr.  
Suite 507, Walker Bank Building  
Salt Lake City 11, Utah

Dear Mr. Morgan:

I was delighted to have your letter of October 5, 1960.

I have read your letter with a great deal of interest and I am certainly glad to have for our files information you have given me concerning your grandfather. Likewise, I am pleased to have the photostats which accompany your letter. I can assure you that this information will be considered valuable and will be placed in our files for the benefit of students who might work in this particular field of study.

There is also a possibility that I may have some occasion to use this material in the future; perhaps I might even incorporate it in Lincoln Lore.

Many thanks for your kind words regarding Lincoln Lore. I find it is quite a stimulating project to prepare these Bulletins each month.

You will be interested to learn that Dr. Warren is still a resident of Fort Wayne and is quite active. He is presently engaged in some research pertaining to Abraham Lincoln and will probably have another book on the market within the year.

Thanking you for your fine letter, I remain

Yours sincerely,

Director

RCM:b



## A LINE O' TYPE OR TWO

*Hew to the Line, let the  
quips fall where they may.*

Reg. U. S.  
Pat. Office

### DR. FITHIAN

Danville, Ill., Nov. 22—Mrs. Nell Barnhart, a charming lady, lives in this house at 116 N. Gilbert, which was built in 1830, and around which a good portion of Danville history is wrapped. Among her effects is the story of the libel suit that Abe Lincoln won.

This house once was the property of William Fithian, M. D., in the time of Lincoln. And when Abe came to town on Sept. 21, 1858, he bedded down in the doctor's home, and a crowd showed up demanding a speech, and Abe couldn't get his boots on, so he just stepped out on the balcony in his sock feet and made this speech.

The doctor was not known as a man of even temper, and it was bruited about he kept an old shoe by the front door to hurl at visitors he did not deem acceptable. He owned a private school, and a second such institution was owned by George W. Cassedy, and the two used to argue bitterly as to which kept the best stable of bur-nished adverbs.

One night, in public meeting, Mr. Cassedy got carried away, and said, "Now, Dr. Fithian, suppose I was to ask you if you ever abandoned the body of your wife in Paris, Ill., to be buried at the mercy of others." By this time he was beside himself, not a bad place to be, as his breath was as sweet as a contented cow's, and did not realize that he had libeled Dr. Fithian right up to his eyeballs.

Dr. Fithian, M. D., let out a yowl for Mr. Lincoln, and said, "Abe, bat him over the head with a libel suit," which Mr. Lincoln did. Well, Danville was not going to be deprived of an entertainment of this sort, and everyone who knew the sheriff or the judge, immediately got courtroom tickets, and when the trial started, they were hanging from the rafters.

In order not to disappoint constituents, the judge and sheriff dragged proceedings along for about a month, as the seating capacity was not too great. But finally the case was in the hands of the jury.

These fellows deliberated gravely for some time, and then they decided that Mr. Cassedy had libeled Dr. Fithian, M. D., to the extent of \$547.90. The verdict did not say which part of the doctor's character was worth that odd 90 cents. But, in a way, Mr. Cassedy had a small measure of revenge. For several years, Mr. C., a meticulous man, carefully made out his personal property tax return. And always, this return carried the following entry, "\$547.90—the character of Dr. Fithian, M. D., which I bought and paid for."

—†—

# LINCOLN DEFENDS A LEGAL FEE

136. DS, 1p., 4to, September 28, 1857. Ink erosion affects three words in the lower right; otherwise in fine condition. [See illustration] \$1250.00

"In the Chancery suit in circuit court - Winthrop S. Gilman & others Compts/vs/ E. Hamilton & others defendants. I was employed by David A. Smith, Esq. atty. for the Compts. consisting at that time of the trustees under Dor. Blackburn's deed and the trustees of Illinois College - and was associated with him as solicitor for the Compts. until the cause was finally adjudicated at Sup. Court in January, 1855. Nathl. Coffin was interested in the event of that suit as a grantee and on the same side with the Compts. - and in Jan'y. 1855, Mr. Coffin paid to me \$100 and part of my fees as one of the solicitors for the Compts., which". Lincoln has here crossed out these concluding six lines: "fees are a just charge upon the property and controversy as costs in the case according to Judge Davis' decree which gave all to said Blackburn's trustees who were the original Compts. in the case." Lincoln has added the date and his signature at the conclusion.

In 1849 the Treasurer of the Illinois College at Jacksonville, Nathaniel Coffin, purchased 10,000 acres of land from the College. Later the Supreme Court of Illinois declared that the College never had legal title to this land and Coffin then hired David A. Smith to represent him in a suit against the College. Smith did not ride the "circuit" so he engaged Lincoln to handle the case for him. Judge Davis, mentioned in the last part of this document was later an ardent supporter of Lincoln for the Presidential nomination, and was appointed by Lincoln to the Supreme Court after his election. Not in Basler.

In the Chancery suit in Circuit Court -  
Winthrop S. Gilman & others Compts  
vs

E Hamilton & others Defendants

I was employed by David A. Smith Esq atty  
for the Compts - consisting at that time  
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of the solicitors for the Complainants, ~~and  
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erty in controversy as costs in the  
case according to Judge Davis' decree,  
which gave all to said Blackburn's  
trustees who were the original Com-  
plainants in the case~~  
Sept. 28. 1857. A. Lincoln

Kenneth W. Rendell, Inc.

62 BRISTOL RD., SOMERVILLE, MASS. 02144

Aug. 1970



## Project and Staff News

The project acknowledges with deep appreciation the generous contribution of J. M. Lloyd. Individual donations to the project are still welcome and help us maintain our commitment to documenting the life and times of Abraham Lincoln.

In June, John Lupton published an article entitled "Documenting Abraham Lincoln" in the latest *Public History News*, the quarterly newsletter for the National Council on Public History.

In July, Stacy McDermott received a King V. Hostick award from the Illinois Historic Preservation Agency and the Illinois State Historical Society. She will use the nearly \$3,000 award to conduct research for her dissertation, which is an analysis of the composition of antebellum Illinois juries and the status of the jury as a democratic institution. McDermott is pursuing a doctorate in American history from the University of Illinois at Urbana-Champaign.

In August, John Lupton spoke to the Decatur History Club about Lincoln's legal career. He also traveled to Piper City, Illinois, to make a presentation to the Ford County Historical Society. In that presentation, he talked about Lincoln's travels along the Eighth Judicial Circuit.

At the Illinois State Fair in August, project secretary Carmen Morgan volunteered at the Abraham Lincoln Presidential Library and Museum tent exhibit. While project editors were busy completing final tasks related to the submission of the manuscript, Morgan's willingness to volunteer provided a project representative at the fair. Although too rarely recognized, her contributions are vital to the success of the project.

On September 13, Daniel Stowell spoke at a reception at the U.S. Courthouse in Springfield. The Illinois Bar Foundation hosted the reception to raise money to place a monument on the unmarked grave of Samuel H. Treat in Oak Ridge Cemetery. Treat was the judge of the Eighth Judicial Circuit (1839-1848), a justice and chief justice of the Illinois Supreme Court (1841-1855), and judge of the U.S. District Court for the Southern District of Illinois (1855-1887).

Project staff prepared a small exhibit on Judge Treat's life and accomplishments. John Lupton

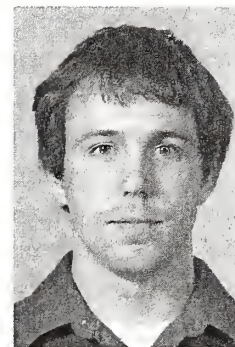
and Kelley Boston also represented the project at the event and answered questions about Judge Treat and the exhibit.

### Project Hires Graduate Assistant

In August, Michael Kelley joined the project as a graduate assistant. He began course work this fall in the Master's program in public history at the University of Illinois at Springfield.

A native of Lake Villa, Illinois, Kelley earned a B.A. in history from the University of Illinois at Urbana-Champaign in 2004. After graduation, he taught English/Language Arts at Abramson Senior High School in New Orleans, Louisiana. He taught school for one year before returning to Illinois to begin graduate school.

As a graduate assistant, Kelley will spend much of his time processing digital images for Series II and Series III. This process involves cropping the large, high-resolution tiff images, concatenating multi-page documents, encoding the files into a smaller, more usable digital format, and adding digitization information to the document-control database. Kelley will also assist with the maintenance of survey files and participate in various research and clerical activities.



### Macready v. City of Alton, Illinois

*This is the third installment in a series presenting interesting Lincoln cases that will not appear in the upcoming four-volume book edition.*

On March 30, 1857, seventeen-year-old Mary Macready fell into a "deep & dangerous excavation" on a sidewalk in Alton in Madison County, Illinois. Macready, an Irish immigrant, was visiting Alton from New York. During the fall, she severely injured one ankle, one leg, and her back. The extent of her injuries forced her to seek medical attention, including the services of a "cold water" physician in Peoria, Illinois, some 150 miles north

of Alton. Macready's medical expenses totaled \$500, and she was unable to work during her time of rehabilitation.

In the spring of 1858, Macready retained the legal services of two law firms, Abraham Lincoln & William H. Herndon of Springfield, Illinois, and Orville H. Browning & Nehemiah H. Bushnell of Quincy, Illinois. In June 1858, Macready's attorneys filed a trespass on the case action against the City of Alton in federal circuit court in Springfield. The declaration in the case charged the city with negligence, claiming that the municipality was responsible for maintaining sidewalks to ensure that they were "free from all dangerous holes, pits, ditches and excavations, or, in case of temporary necessity, to have all passers upon said streets and sidewalks, warned of such holes, pits, ditches, and excavations, by proper guards, lights, signals, and other means."

The federal marshal issued a summons for Alton's mayor, the city clerk, the city attorney, and two members of the city council. The city hired Alton attorneys Levi Davis and Henry W. Billings.

In the suit, Macready sought \$20,000 in personal injury damages, arguing that the severity of her injuries and the city's failure to warn pedestrians of the danger warranted such damages. The city denied any responsibility for Macready's accident.

During his legal career, Lincoln and his partners handled at least nine personal injury cases. Five of those cases involved injuries sustained on stagecoaches and railroads, two dealt with medical malpractice, and two, including Macready's case against the City of Alton, were the result of injuries sustained on poorly maintained city sidewalks. The other case began in March 1853 after Oliver W. Browning fell and broke his leg on a sidewalk in Springfield.

After his accident, Browning had retained Lincoln & Herndon and filed suit against the city in the Sangamon County Circuit Court, claiming that the municipality was negligent in keeping its streets and sidewalks in good repair. Among other arguments, the city claimed that it did not have sufficient funds for such maintenance. In November 1853, the jury in the case returned a verdict in favor of the city. Browning appealed the judgment to the Illinois Supreme Court, which reversed and

Springfield, June 22, 1858.  
O. H. Browning, Esq.  
My dear Sir  
Mrs Macready has appeared  
here again this morning; and it now occurs  
to me as strange that I have not thought to  
ask you whether you can possibly be in town  
at the next term, if we continue the case  
here then - Can you? Answer as soon as  
possible, after receiving this. If you can possibly  
be here at the term say so, and about what  
day; but I understand you that probably you  
can not be here again at this time -  
Yours truly  
Abraham Lincoln

**Abraham Lincoln to Orville H. Browning  
22 June 1858**

Lincoln wrote to Browning, who was representing the City of Alton in the case, inquiring about Browning's availability for the trial in federal court in Springfield.

*Image courtesy of the Abraham Lincoln Presidential Library and Museum, Springfield, Illinois.*

remanded the case in February 1856. In the opinion, Justice Walter B. Scates argued that the city's charter made it responsible for keeping its streets and sidewalks in good repair and that its tax base provided adequate means for repairs. Scates realized that the court's opinion in the case was innovative, but it was "based upon sound sense in accordance with strict morality, and keeping pace with the progress of the improvements of the age." A jury at the remanded case in April 1857 awarded Browning \$700 in damages.

Lincoln certainly utilized his experience with the *Browning* case to obtain remedy for Mary Macready a little over one year later.

On June 29, 1858, Macready's trial against Alton began with a jury empaneled to hear the evidence. One of the jurors was Oliver W. Browning, the same man who had obtained his own personal injury judgment. U.S. Circuit Judge Samuel H. Treat presided over the proceedings. The trial continued on June 30, and the attorneys presented their evidence and arguments.

Three witnesses testified on behalf of Mary Macready: Dr. Hezekiah Williams, a twenty-eight-year-old Alton physician who had provided medical attention to Macready following her injury; Dr.

*continued on page 4...*



George C. Wood, a Peoria specialist in "cold water" remedies; and thirty-year-old Margaret Brown, a chamber maid at a hotel in Peoria where apparently Mary Macready had resided during her convalescence. Margaret Brown was also an Irish immigrant, and the two women may have forged a friendship during Macready's rehabilitation.

Three witnesses testified on behalf of the defendant: Joseph Brown, who was perhaps an Alton drayman who worked in the city delivering goods to various merchants along the sidewalk where Macready fell; thirty-six-year-old Charles A. Murray, the proprietor of Alton House hotel; and S. B. Dolby, a forty-year-old deputy sheriff of Madison County.

On the same day, the jury of twelve men retired to consider their verdict. After lengthy deliberations, they returned a verdict, finding the City of Alton liable for damages and awarding Macready \$300. While the jury agreed that the city was responsible for Macready's injuries, they were unwilling to meet her request of \$20,000. The jury award probably reflects Macready's actual medical expenses. The jury also agreed that each party should cover their own legal fees.

On June 29, Mary Macready paid Dr. Wood \$14.90 as payment for his witness fees. On July 9, she paid Margaret Brown the same amount. All of the witnesses at the trial had to travel to Springfield

to testify at the trial. The fees of these two witnesses, who traveled from Peoria, included travel expenses.

On September 7, 1858, Mary Macready certified to George W. Lowry, the federal circuit clerk, that she had received \$300 from the City of Alton for damages in her case against them.

Personal injury cases were not common on antebellum Illinois dockets, but they were beginning to occur at greater frequency. Growing transportation systems and the dangers associated with them, changing attitudes about corporate liability, and a developing legal system merged to provide an environment that fueled the increase in personal injury cases. Mary Macready's case was heard in the context of those changes, and her ability to seek some remedy for her injuries was, increasingly, an option for other nineteenth-century Americans as well.

**Stacy Pratt McDermott**  
**Assistant Editor**

Sources: Martha L. Benner and Cullom Davis et al., eds., *The Law Practice of Abraham Lincoln: Complete Documentary Edition*, DVD-ROM (Urbana: University of Illinois Press, 2000); *Browning v. City of Springfield*, 17 Ill. (1855) 142-48; U.S. Census Office, Seventh Census of the United States (1850), Madison County, IL, 142, 745 and New York County, NY, Ward 5, 120; U.S. Census Office, Eighth Census of the United States (1860), Madison County, IL, 116, 160 and Queens County, NY, 627; *Alton Weekly Courier*; *Daily Illinois State Journal*; McEvoy & Brown, comp., *Alton General City Directory and Business Mirror for 1858* (Alton, IL: Courier Steam Printing House, 1858); William J. Novák, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996); Peter Karsten, *Heart versus Head: Judge-Made Law in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1997).

## The Lincoln Legal Papers

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A Project of



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*This project has been supported by grants from the National Endowment for the Humanities, an independent federal agency, and the National Historical Publications and Records Commission.*

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Printed by authority of the State of Illinois (3.8M—10-05)

# A New Lincoln Story And How He Won in Slander Suit

Record of 103-Year-Old Case, Turned up at Decatur, Shows  
Emancipator Prevailing over Client of Stephen A. Douglas

Decatur, Ill.

It's true, so what?

That was the substance of the plea in a slander suit filed for the defendant 103 years ago by Abraham Lincoln.

Records of this old case have just been discovered in the Macon county court house by Dr. Harry E. Pratt, Springfield, executive secretary of the Abraham Lincoln Association and author of "Lincoln; Day by Day, 1809-1839."

## Other Notables Appeared

Other papers in the case were in the handwriting of four other outstanding lawyers of the time: Stephen A. Douglas, Lincoln's rival; John T. Stuart, Lincoln's law partner; Charles Emmerson, later a judge who presided in courts where Lincoln often practiced; and Kirby Benedict, who later became governor of the New Mexico territory.

Plaintiff in the case, one Adkins, was represented by Douglas and Benedict. They charged that their client had been defamed by defendant by reason of the latter's accusations that: "You are a damned pig thief. You are a damned infamous pig thief. You have steien hogs and I can prove it. You are a pig and hog thief and damn you, help yourself if you can!"

Damages of \$2,000 were sought.

## Lincoln Wrote Answer

Answer of the defendant, Hines, was signed by Emmerson but was in the handwriting of Lincoln. It admitted that defendant "did speak and publish said words of and concerning the said plaintiff as in the said declaration mentioned, as he lawfully

might for the cause aforesaid—and this he the said defendant is ready to verefy [sic], wherefore he prays judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against him & -----

"And for further plea in this behalf, -----, saith that the said plaintiff ought not to have or maintain his aforesaid action against him because he says that the said plaintiff, -----, did feloniously steal, take and carry away certain goods and chattels, towit five pigs and five hogs of one David Stutesman of great value towit of the value of fifty dollars."

## An Exciting Occasion

Decatur's brand new two-story brick court house must have been packed with perspiring spectators on the day in June, 1839, when the trial began and ended. Not only was there excitement over the hog-lot depredations but the event was also bringing back "Abe" Lincoln, the local boy who made good. Eight years before, the Lincolns had lived in their first Illinois home, 10 miles southwest of Decatur.

A notation on the bottom of Hines' plea stated:

"Pleas both transcribed and pieces joined in shorthand by consent. Douglas & Benedict. Stuart & Lincoln."

Two of the jurors were Joseph and Charles Hanks, cousins of Lincoln!

## Twenty Witnesses Heard

Adkins produced seven witnesses, but Hines rounded up 13, four of whom had experienced hog thefts. Whether by reason of numerical superiority of witnesses, or because of the righteousness of his cause, or because of the skill of counsel, Lincoln's client was given the verdict.

(Continued on Page Six)

## New Story of Lincoln

(Continued from Page Three)

Douglas wasted no time in applying for a new trial. The application reads in part as follows:

"David Adkins pltf. being sworn states on oath that since a trial of this cause on yesterday he has discovered new testimony of the facts time of which he had no knowledge until since said trial was had and determined towit the testimony of George Query and Judith Oglesby who reside in said county of Macon. This affiant expects to be able to prove and believes that he can prove by said witnesses that at the time he is charged to have stolen the hogs from John G. Deeds towit on the 15th day of September 1838 this affiant was about twenty miles distant from the residence of said Deeds \* \* \* towit that this affiant was in the Town of Decatur on that day and for five or six days before and after that day \* \* \* & therefore that he could not have been guilty of said charge."

The Court must have rejected Douglas' motion, for the records show that \$40.37, the costs of the trial, were levied on his client's goods on June 28 and were satisfied July 13, 1839.

Sheriff James Stevens listed Adkin's goods as follows:

"1 cow,  
"1 yearlin heifer,  
"1 clock,  
"1 lot of tools."



# She Hired Lincoln to Fight For Her Pig

Aged Mrs. Wilbern Tells of One of the Great President's First Lawsuits in New Salem, Ill., and How He Won it for a Fee of \$2—Lincoln Liked the Girl and it Was a Great Joke When He Froze His Feet Once Going to See One—He Was a Wrestler, But Couldn't Throw the Colored Boy.

This is the tale of a pig—a wee, Chester White piggy, which ranks high in Porcine history.

Abraham Lincoln gained fame through the young porker. The pig was literally a "fat-fryer" for Lincoln during his "starving days" as a young lawyer.

The story is now told, on the eve of the celebration of Lincoln's one hundredth birthday anniversary, by Mrs. Sina Wilbern, aged 94 years, of Omaha, Neb., whose husband retained Lincoln to defend their claim to the pig. The old lady insists that Lincoln's fame sprouted from this case, which he won against "one of the most noted lawyers of that time."

This is her story: "Lincoln was just a young lawyer then, studying at odd-times in the office of Lawyer HERNIMAN at New Salem, Ill.

"My husband had been Lincoln's school companion and knew him well when he clerked in the town grocery and later when he was studying law. So, when we had a lawsuit to defend we retained him, though we didn't think he was much of a lawyer.

"We had a Chester White hog. That was when the Chester Whites were scarce and valuable.

"In time a brood of seven little pigs was born. We let them run around loose, and one night one little pig was lost. We searched everywhere for it, but could not find it.

"About a month later my husband found the pig running in the road toward our house. He picked it up and took it back home, as he identified it by a notch in its ear—the same mark we had on the ears of all the new pigs.

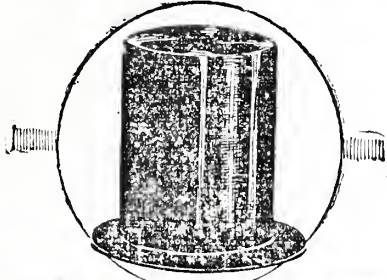
"The next day a prominent family near us claimed the pig. They swore it was their pig, but we found they kept the pig hidden in the woods.

"When we refused to give them our pig they brought suit against us.

"Then we engaged Lincoln. They claimed the pig was worth only 50 cents. We said it was worth \$2.50.

"Feeling ran high in the neighbor-

hood and a feud almost started. Finally the case came to trial. Lincoln distinguished himself by winning the case. He made a great plea in arguing the case.



MRS. SINA WILBERN.



"His fee from us was \$2 and I guess he needed it.

"But his victory gave him much prominence in the town. It was one of the first victories he won in court in which the public was much interested."

Mrs. Wilbern learned much about Lincoln's boyhood from her husband. She also knew him for several years at New Salem. Her recollections of this period are remarkably clear and she has many a good story to tell.

She said:

"My husband and Lincoln while at school played and wrestled together. Neither had much schooling and neither liked to get what schooling they had. Lincoln was not as studious as some people have said.

"Wrestling was a great hobby and sport of Lincoln. A negro named 'Tate' was the only boy at school who could throw him.

"Lincoln was not so awfully bright at school and liked to play 'hooky,' I guess. He and my husband often skipped school and went fishing or hunting out in the woods.

"Nobody thought much of Lincoln when I first met him, that is as a bright fellow, but everyone liked him. He was always good-natured. He was never offended; always joking and just full of jokes."

Interesting reminiscences of Lincoln's early courtships and marriage to Miss Todd are recounted by Mrs. Wilbern. She strongly disapproved of his wedding with Miss Todd, whom she describes as a "highfalutin'" lady.

"Lincoln was always a great fellow to go to parties. He liked the society of women.

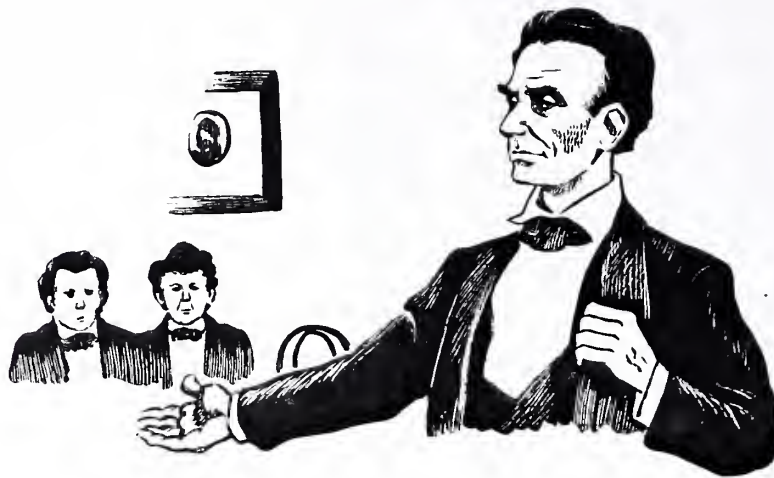
"But Lincoln buried his love—Ann Rutledge, his first sweetheart. He was devoted to her. When she died I know Lincoln was heartbroken. He told my husband he had buried his love.

"A good joke on Lincoln, I remember," said the old lady. "He froze his feet going to see a girl. He had to walk a long way through snow on an awful cold night. He had to stay a week at the girl's home until his feet got well enough for him to go out. Then the old lady charged him board."

Denial of the rail-splitting anecdote credited to Lincoln's youth is made by Mrs. Wilbern.

"My husband said Lincoln never split rails. The Hankses were not that poor. That rail-splitting story was only made up for political purposes, to use to get votes.

"Lincoln and my husband were always good friends, but he voted for Douglas. He liked Lincoln, but they were of different politics. We both heard the great debate between Lincoln and Douglas."



## Justice by Lincoln

AS a lawyer, Abraham Lincoln was noted for his resourcefulness in the courtroom, often coupled with a sense of the larger justice in a matter at issue. This faculty frequently enabled him to turn an apparently lost case into a victory for his client. Such an incident is described by an eyewitness in Herndon's Lincoln (D. Appleton-Century).

Lincoln was retained by an elderly farmer named Case in a suit to collect on a note given Case by two Snow brothers. The brothers, both minors, had purchased from him what was called a "prairie team," two yoke of oxen and a prairie-breaking plow, Case taking their note for some two hundred dollars. When the note fell due, they refused to pay, taking refuge in a state act relieving minors of responsibility. The suit was called and a jury impaneled. The two Snow brothers, called to the witness stand, did not deny signing the note, but pleaded through their counsel that they were minors and that Case knew this was so when he made the deal with them.

All this was admitted by Lincoln, with his peculiar phrase, "Yes, gentlemen, I reckon that's so." The minor act was read by the Snows' counsel and its validity admitted by Lincoln in the same manner. The counsel for the defendants were permitted, without objection, to state all these things to the jury and to show that, by the statute, these minors could not be held responsible for their contract. By this time the spectators were beginning to feel that the elderly farmer was being wronged and that his counsel was remiss in putting up no better fight for his rights. Lincoln had admitted virtually everything and had hardly bothered to question his own witness.

But just when his client's cause seemed irretrievably lost, Lincoln slowly lifted his tall frame from his chair and in a quiet voice began, "Gentlemen of the jury, are you willing to allow these boys to begin life with this shame and disgrace attached to their character? If you are, I am not. The best judge of human character that ever wrote has left these immortal words for us to ponder:

*"Good name in man or woman, dear my lord,  
Is the immediate jewel of our souls;  
Who steals my purse steals trash;  
'tis something, nothing;  
'Twas mine, 'tis his, and has been  
slave to thousands;  
But he that filches from me my  
good name  
Robs me of that which not enriches  
him  
And makes me poor indeed."*

Then rising to his full height and looking upon the two Snow brothers with deep compassion, he extended his long right arm toward the opposing counsel and said, his voice taking on a scathing tone, "Gentlemen of the jury, these poor innocent boys would never have attempted this low villainy had it not been for the advice of these lawyers. They have not counseled what is good for them, but what would put them in a lifetime pathway of disrespect and shame."

Not even mentioning his own client and his just dues, he pleaded for the two boys, concluding with this appeal, "And now, gentlemen, you have it in your power to set these two boys right before the world." The jurors, without leaving their seats, decided that the two defendants must pay their debt. The latter, after listening to Lincoln's plea, were just as willing to pay as the jury was determined that they should.

—E. H. TAYLOR.



### LINCOLN BEFORE A JURY.

"If I can free this case from technicalities, and get it properly swung to the jury, I'll win it," Abraham Lincoln used to say, when confident of the justice of the cause he represented. He was weak in defending a wrong case, for he was mentally and morally too honest to explain away the bad points of a cause by ingenious sophistry.

Instead of attempting to bolster up such a cause, he abandoned it. Once he abandoned a case in open court, being convinced that it was unjust. A less fastidious lawyer took Mr. Lincoln's place, and won the case.

Mr. Herndon, in his "Life of Lincoln," tells a story which exhibits his ability in getting a case he believed in "properly swung to the jury."

A pension agent, named Wright, secured for the widow of a Revolutionary soldier a pension of four hundred dollars, of which sum he retained one-half as his fee. The pensioner, a crippled old woman, hobbled into Lincoln's office and told her story. It stirred Lincoln up; he brought suit against the agent, and on the day of the trial he said:

"I am going to *skin* Wright, and get that money back."

He did so. The old woman told her story to the jury. Lincoln, in his plea, drew a picture of the hardships of Valley Forge, describing the soldiers as creeping barefooted over the ice, and marking their tracks by their bleeding feet. Then he contrasted the hardships of the soldiers endured for their country with the hardened action of the agent in fleecing the old woman of one-half of her pension.

He was merciless; the members of the jury were in tears, and the agent writhed in his seat under the castigation of Lincoln's denunciation. The jury returned a verdict in her favor for the full amount, and Lincoln made no charge for his services.

His notes for the argument were unique:

"No contract.—Not professional services.—Unreasonable charge.—Money retained by Def't not given by Pl'f.—Revolutionary War.—Describe Valley Forge privations.—Ice.—Soldiers' bleeding feet.—Pl'f's husband.—Soldier leaving for army.—*Skin Def't.*—Close."

### The Stubborn Juror.

In the case of Parker versus Hoyt, tried in the United States court in Chicago, Lincoln was one of the counsel for the defendant. The suit was on the merits of a infringement of a patent water wheel. The trial lasted several days, and Lincoln manifested great interest in the case. In his earlier days he had run, or aided in running, a sawmill and explained in his argument the action of the water on the wheel in a manner so clear and intelligible that the jury were enabled to comprehend the points and line of defense without the least difficulty. It was evident he had carried the jury with him in a most masterly argument, the force of which could not be broken by the reply of the opposing counsel. After the jury retired he became very anxious and uneasy. The jury were in another building, the windows of which opened on the street, and had been out for some two hours. "In passing along the street one of the jurors on whom we very much relied," relates Lincoln's associate in the case, "he being a very intelligent man and firm in his convictions, held up to him one finger. Mr. Lincoln became very much excited, fearing it indicated that 11 of the jury were against him. He knew if this man was for him he would never yield his opinion. He added if he was like a jurymen he had in Tazewell county the defendant was safe. He was there employed, he said, to prosecute a suit for divorce. His client was a pretty, refined and interesting little woman and in court. The defendant, her husband, was a gross, morose, querulous, fault finding and uncomfortable man and entirely unfitted for the husband of such a woman; but, although he was able to prove the use of very offensive and vulgar epithets, applied by the husband to his wife and all sorts of annoyances, yet there were no such acts of personal violence as were required by the statute to justify a divorce.

"Lincoln did the best he could and appealed to the jury to have compassion on the woman and not to bind her to such a man and such a life as awaited her if required to live longer with him. The jury took about the same view of it in their deliberations. They desired to find for his fair client, but could discover no evidence which would really justify a verdict for her. At last they drew up a verdict for the defendant, and all signed but one fellow, who on being approached with the verdict said coolly: 'Gentlemen, I am going to lie down to sleep, and when you get ready to give a verdict for that little woman then wake me and not until then, for before I will give a verdict against her I will lie here till I rot and the pismires carry me out through the keyhole!' 'Now,' observed Lincoln, 'if that jurymen will stick like the man in Tazewell county we are safe.' Strange to relate, the jury did come in, and with a verdict for the defendant. Lincoln always regarded this as one of the gratifying triumphs of his professional life."

## ONE OF LINCOLN'S CASES.

### The Great Man Whittled a Little Windmill to Convince the Jury.

In the year 1848 there was a memorable lawsuit in Chicago between Parker and Hoyt over the infringement of a patent right of a water wheel. Adams, Butterfield, and leading lawyers of that day were attorneys for the plaintiff and Abraham Lincoln appeared for the defendant.

In the course of the trial a flume was made and water applied to the wheels for



MR. LINCOLN'S WINDMILL.

the purpose of demonstrating to the jurors the exact facts in the case. Indian meal was thrown into the water to show the jury more clearly the effect of the water on the wheels.

While the attorneys for the plaintiff were making their pleas Lincoln sat there, and, although listening closely, whittled out a pine stick, about half an inch square and a foot long. From that he cut off two pieces about three inches in length, and with these pieces he made the wings of a windmill. He fastened them together by running a pin through the center of the two wings and that pin into the end of the other and longer stick. After having put it together he blew upon it, and when it worked to his satisfaction he took it apart and placed it in his pocket.

There were eighty-four witnesses on the two sides.

Mr. Lincoln requested the witnesses to be present during his plea, and said if he made any mistakes in regard to their testimony he wished them to correct him. While presenting his side of the case he took out the above-mentioned windmill from his pocket and, putting it together, blew upon it and explained it to the jury. He assured them that if any infringement had been made Parker had infringed upon the old-time windmill, and that Hoyt had not infringed upon Parker. Adams was to make the closing plea, and in Lincoln's speech he anticipated what Adams would say, and by this means weakened the force of his plea. Lincoln won his case and the jury were out only a little over two hours.



